

**THE DELEGATED LEGISLATION
PROVISIONS (AMENDMENT) BILL,
1982**

THE MINISTER OF LAW, JUSTICE
AND COMPANY AFFAIRS (SHRI
JAGNNATH KAUSHAL): Sir, I beg to
move.

"That the Bill to amend certain Acts to
implement the recommendations of the
Committees on Subordinate Legislation
regarding publication and laying of rules
and other delegated legislation. be taken
into consideration."

Sir, as the House is aware, a number of
Acts passed by Parliament in the past, which
provide for the making of rules, regulations
and other forms of subordinate legislation, do
not provide for the laying of the same before
the Houses of Parliament. Some of these Acts
do not expressly provide for the publication of
rules, regulations and other forms of
subordinate legislation made thereunder in the
Official Gazette. Some of the Acts enacted by
Parliament, which provide for the making of
rules, regulations and other forms of
subordinate legislation contain formulae for
laying of the same before the Houses of
Parliament in a form differea'. from that
which is now being adopted in accordance
with the recommendations of the Committees
of the Houses on Subordinate Legislation.

THE VICE-CHAIRMAN (DR. (SHRI-
MATI) NAZMA HEPTULLA) in the
Chair)

The Committee on Subordinate Legislation
had from time to time been emphasising that
the administrative Ministries concerned with
the different enactments should take necessary
steps for amending the same so as to include
therein the said recommendation for the laying
and scrutiny of subordinate legislation as
approved by the Committee. The practice
hitherto has been to bring forward separate
Bills for amending the various Acts, for
including therein the provisions on the lines
recommended by the Committee's on
Subordinate Legislation. In the pas*.

when some Bills came up for consideration in
the House, suggestions were made by some of
the hon. Members that it would be better to
bring forward a comprehensive legislation
covering the various enactment which require
similar amendments. The present Bill is by
way of implementation of this suggestion. The
Bill seeks to amend 50 enactments specified
in the Schedule thereto to give effect to the
recommendations of the Committees on
Subordinate Legislation regarding the laying
and publication of rules and other forms of
delegated legislation. Efforts are being made
by my Ministry to cover the remaining
enactments which require similar amendments
in due course after obtaining the necessary
clearance from the Ministries of the
Government which are administratively
concerned with these enactments.

Sir, I move the Bill for adoption by the
House.

THE VICE-CHAIRMAN [DR. (SHRI-
MATI) NAJMA HEPTULLA]; There is
one amendment by Shri Jha for reference-of
the Bill to a Select Committee. He is not there.
There is nobody to move it. ,

The question was proposed.

SHRI GHANSHYAMBHAI OZA
(Gujarat): Madam, Vice-Chairman, I welcome
the Bill so far as it goes. Madam, it must be
realised that this Bill does not confer special
powers on the Committee on Subordinate
Legislation to examine all the Rules. It only
facilitates examination of the Rules if they are
made available by placing them on the Table
of the House. Even if they are not placed on
Table of the House, the Committee on
Subordinate Legislation has authority if it
comes across such rules or if otherwise it
comes to the notice of the Committee that the
rules are *ultra vires* and they are not
consistent with the provisions of the Act; the
Committee can certainly look into it. Anyway,
Madam, I said I welcome the Bill so far as it
goes.

Madam, we are all aware that to bring
into force the Objects and Reasons of any
Act: we cannot make provisions in the
Act itself. It would be very cumbersome

[Shri Ghanshyambhai Oza]

and a lengthy Act. Certainly we have to leave some powers for giving effect to the Objects and Reasons to the Government. Most of the Acts also provide that the Government will make the rules and regulations for implementing certain provisions of the law.

Now, Sir, what is our experience? Our experience so far is that in some cases the Rules are not at all framed, and in certain cases, a lot of delay is there in framing the rules. In some cases, because of inefficiency or callousness, I do not know, the rules are not made, consistent with law or constitution and it increases the work not only of the Subordinate Legislation Committee but perhaps of the Executive also.

Madam, I am rather inclined to say that our law courts, whether it is the Supreme Court or the High Court, are exercising the functions of the Committee on Subordinate Legislation. Yesterday my esteemed friend, Mr. Kaushal, said that there are 63,000 cases pending in the Supreme Court. This is over and above 52,000 civil and criminal petitions. And what about High Courts? Nine point three lakhs of cases pending in High Courts. This is the position. Why so much? It is because of two reasons. In the first place, our legislation is defective. It does not take care of the constitutional provisions and they are being challenged in appropriate courts. Secondly, the rules that are being framed by the appropriate Governments, whether at the State level or the Central level, are defective.

4.00 P.M

They provide more powers and give some arbitrary authority and the people have to go to a court of law. This is the position. After all, the executive is given some authority and these rules have got legal sanction. They are as good as law because they cannot be challenged in a court of law unless they are not consistent with the provisions of the Act or the Constitution or they are against the princi-

ples of natural justice. So, we have to take care to see we exercise it with great diligence. All the Governments must be warned to exercise the powers of subordinate legislation with great care and that they should apply their minds properly. I am sure that if they do so, this will not be the position. I do not know out of 63,000 cases in the Supreme Court and so many in the High Courts how many of them are really due to being *ultra vires* of the Act or rules and regulations framed by the Government. I have to be very careful about all these things. I think that it is good that the Minister has reacted in a good manner and brought this legislation. After all, it will facilitate the work of the Subordinate Legislation because we have the rules and regulations before us. Otherwise, we have to find out from so many others. With these remarks while welcoming this Bill, I request the hon. Minister to see that the number of cases in the Supreme Court and the High Courts goes down if the powers are vigilantly exercised.

SHRI SANKAR PRASAD MITRA (West Bengal): It may also increase litigation.

SHRI DIPEN GHOSH (West Bengal): Since this amending Bill has been brought -^ as per the recommendations of the Committee on Subordinate Legislation, one can not but support it. So, I support this Bill. I find that as many as 50 recommendations have been incorporated into this comprehensive Amending Bill. I shall be glad if the hon. Minister would let us know how many such recommendations have since been made by the Committee on Subordinate Legislation which still need to be brought forward into a comprehensive Bill for amending the Acts. Secondly, I want to have a clarification from the hon. Minister. There is an Act and the rules made under that Act are not laid on the Table of either of the two Houses. There are certain organisations owned by the Government and registered under the Indian Companies Act. There are two types of organisations owned by the Government. One type is established

by a Statute and the other type is registered under the Indian Companies Act. The second group has got certain autonomy in the matter of running its business. The Government decides to get such organisations registered under the Indian Companies Act. But in the case of statutory organisations, they are established by an Act of Parliament. Therefore, this rulemaking authority is given to the executive and the rules are laid on the Table of the House, thereafter the Committee on subordinate Legislation gets an opportunity of reviewing them or examining them.

But in the case of organisations owned by the Government but registered under the Indian Companies Act, they do frame rules but they are not bound by any provision in that Act to lay the copies of such rules on the Table and, therefore, the committee on Subordinate Legislation do not get the privilege of examining them. But, since such companies are owned by the Government and since they are founded by the Government on behalf of the public, I think, the rules framed by such companies by such organisations I should say, should be laid on the Table of Parliament. And for that matter, a provision should be made. And, I would therefore, appeal to the Minister of Law, through you Madam, Vice-Chairman, to kindly consider this aspect and bring in an amending Bill to the Indian Companies Act so that the rules, framed by the Government organisations, registered under the Indian Companies Act, are laid on the Table of Parliament. Thank you. Madam,

श्री राम लखन प्रसाद गुप्ता (बिहार):
उपसभाध्यक्षा महोदया, यह जो डेलिगेटेड लेजिस्लेशन प्रोवीजन (अमेंडमेंट) बिल, 1982 आया है, मैं इसका समर्थन करता हूँ। बल्कि यह बहुत देर करके आया, यह ऐसा समझ में आता है। इसे बहुत पहले आना चाहिए था। यह ठीक ही कहा गया है कि इसमें पचास एक्ट्स में रूलज के लिए संशोधन लाए गये हैं और यह एक्ट है, ओपियम एक्ट, 1857 से लेकर, प्रेस कौंसिल एक्ट, 1978 तक और इसके अतिरिक्त भी
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और कई होंगे। परंतु यह सुबोडिनेट लेजिस्लेशन कमेटी के कई जगहों पर और उनके इस तरह के रिमार्क लाने पर कि इन रूलज को आना चाहिए और हर एक्ट में इस तरह का प्रावधान रहना चाहिए, तब इसे एक्ट में लाया गया है।

परंतु इसके अतिरिक्त भी बहुत सारे एक्ट्स हैं जिनके अंदर भी इस तरह के संशोधन की जरूरत है। इस तरह के संशोधन जो बहुत दिनों के बाद बहुत देर करके लाये गये हैं, जिसके कारण कितनी दिक्कतें होती हैं, हमारे पूर्ववक्ता ने आपके सामने रखा है, लेकिन इतना जरूरी है कि यह रूलज जो चाहिए, कोई भी एक्ट के अनुसार वह रूलज नहीं बनने के कारण वह कानून भी बेकार पड़े रहते हैं। कितने कानून के अनुसार वह रूलज नहीं रहते पर मुकदमे जल्दी नहीं चल पाते हैं।

यहां पर इमैजल कमेडिटीज का स्पेशल प्रोवीजन बिल पास हुआ था, परंतु उसके रूलज बनने में ही काफी दिन हुए, जिसके कारण उतने दिनों तक उसे लागू नहीं किया जा सका था और जब उस तरह के रूलज नहीं बनते हैं, तो सरकार अपने प्रशासनिक आदेश या इस तरह के अपने डिपार्टमेंटल सर्कुलर के साथ उस गैप को भरना चाहती है और इस तरह से और कठिनाई होती है क्योंकि उन रूलज को पार्लियामेंट या लेजिस्लेचर्स देख नहीं पाती, सर्कुलर-इज नहीं कर पाती कि वह कहां तक ठीक है और कहां तक ठीक नहीं है।

इसके संबंध में सुबोडिनेट लेजिस्लेशन कमेटी ने अपनी पॉतालीसबी रिपोर्ट में लिस्ट 19 पर कुछ रिमार्क दिये हैं,

[श्री राम लखन प्रसाद गुप्ता]

जो मैं इस संदर्भ में कोट करना चाहता हूँ ताकि जिससे भविष्य में मंत्री जो इस बात का ख्याल रखें।

इसके पैराग्राफ 37 में कहा गया है—

"Over the years, the Committee had come across a number of cases where there has been an inordinate delay in the making of rules, and in the absence of rules the Government had taken the recourse to administrative orders, departmental circulars and the like which had a vital bearing on the rights and duties of particular sections of people. The Committee is firmly of the opinion that such an unsatisfactory situation could be avoided if the Government instead of issuing departmental circulars, etc., can frame well in time the rules required to be made under the parent Act."

इसी तरह से पैराग्राफ्स 38, 39 और 40 में भी हैं, लेकिन मैं उन्हें पढ़ने की जरूरत नहीं समझता। वह काफी लम्बा हो जाएगा। परंतु इसके साथ हम देखते हैं—उदाहरण के लिए सप्रेशन आफ इमोरेल ट्रैफिक इन विमन एण्ड गर्ल्स एक्ट, 1956 का है और 31 अक्टूबर 1980 तक उस के रूल्स नहीं बने। उपाध्यक्ष महोदया, आज जिस कालिंग अटेंशन पर हम लोगों ने चर्चा की है उस में और इस तरह के दूसरे सामाजिक कानून हैं, 1956 के हैं लेकिन 1980 तक उस के रूल्स नहीं बन सके। सबोर्डिनेट लेजिस्लेशन कमेटी की 41 वीं रिपोर्ट में लिखा है कि 31 अक्टूबर 1980 तक रूल नहीं बने हैं। इस के कारण बहुत सी दिक्कतें रहती हैं। रूल नहीं बनते हैं तो एक्ट ठीक से लागू नहीं हो पाता और अगर जबरदस्ती लागू कर दिया जाता है तो फिर केस ठीक से नहीं चल पाते। यह

बात सही है कि सबोर्डिनेट लेजिस्लेशन कमेटी के समक्ष गृह मंत्रालय ने कहा है कि कांस्टीट्यूशन के आर्टिकल 240 के अनुसार जो प्रसिडेंटियल आर्डर निकाल दिये जाते हैं, या रेगुलेशन निकाल दिए जाते हैं, पहले यह कहा जाता था कि सबोर्डिनेट लेजिस्लेशन कमेटी या कोई कमेटी उस को नहीं देख सकती थी लेकिन अब गृह मंत्रालय ने स्वीकार किया है कि आर्टिकल 240 के अंदर जो रेगुलेशन बनेंगे, प्रसिडेंट के द्वारा इशू किये जायेंगे उन्हें भी यह कमेटी देख सकती है। इसी तरह से विधि मंत्रालय ने भी इस बात को मंजूर किया है कि जो यूनियन टैरीटरीज के एडमिनिस्ट्रेशन हैं उन के अंदर भी जितने रूल्स बनेंगे उन को भी यह सबोर्डिनेट लेजिस्लेशन कमेटी देख सकती है। इस तरह से यह बात तो तय है कि सबोर्डिनेट लेजिस्लेशन कमेटी को पूरा अधिकार है कि वह सारे रूल्स में जाय, रूल्स, रेगुलेशन, आर्डर जो पास होते हैं उन को देखे वह कहां तक ठीक हैं, कहां तक ठीक नहीं हैं और उस के अनुसार वह अपना परामर्श भी दे। लेकिन यह सरकार का कर्तव्य भी हो जाता है कि जिस वक्त वह एक्ट बनाती है उस के साथ रूल्स भी बनाने चाहिए जिस से उस की एनोमेलीज का पता चल सके। मैं एक उदाहरण देना चाहता हूँ, केन्द्रीय सरकार का एक आदेश है, दाल भंडार सीमा के ऊपर एक आदेश है जिस के अनुसार कोई भी व्यापारी 750 क्विंटल रख सकता है। राज्य सरकार दाल कंट्रोल नियम के अनुसार 500 क्विंटल रख सकता है। कहीं लोग कहते हैं कि 750 की सीमा है, कहीं कहते हैं कि 500 की सीमा है। जहां के अफसर चाहते हैं केन्द्र के आदेश को मानते हैं। जहां के अफसर नहीं चाहते वह राज्य

की सीमा को मान कर मुकदमे चलाते हैं। इस लिए मेरा निवेदन होगा कि इन सारी चीजों के ऊपर मंत्री महोदय ध्यान देंगे और बाकी के जो भी और एक्ट्स हैं उन के भी नियम बनने चाहिए और जो कुछ भी रूल्स बने वह जरूर विधायकों या सांसदों के सामने आ सकें। इतना ही कहते हुए मैं इस का समर्थन करता हूँ।

श्री राम नरेश कुशवाहा (उत्तर प्रदेश) : उपसभाध्यक्ष जी, मैं प्रत्यायोजित विधान उपबंध (संशोधन) विधेयक, 1982 का समर्थन करने के लिए खड़ा हुआ हूँ। लेकिन एक बात मैं मंत्री जी से पूछना चाहता हूँ कि सबोर्डिनेट लेजिस्लेशन कमेटी के पास क्या पावर है कि कोई विभाग अगर रूल नहीं बनाता या रेगुलेशन नहीं बनाता है तो वह उस को बाध्य कर सके कि वह रूल बनाये या अगर वह कोई सिफारिश करता है तो उस को लागू आप कैसे कराते हैं अगर आपसी विचार विनियम में अधिकारी या आप नहीं मानें ? मैं आप से कहना चाहता हूँ कि आज भी बहुत से ऐसे विभाग हैं जो स्थायी हैं लेकिन उन के कर्मचारी अस्थायी हैं। बहुत से ऐसे कर्मचारी हैं जो जिन्दगी भर काम करते हुए रिटायर हो जाते हैं लेकिन वह कन्फर्म नहीं होते, जैसे मैं सैनिक स्कूलों का उदाहरण दे रहा हूँ। केन्द्रीय सरकार सैनिक स्कूलों को मान्यता देती है।

रक्षा विभाग के नियंत्रण में वे चलते हैं। लेकिन उन का माई-वाप कोई नहीं है। पढ़ाई की मान्यता तो स्टेट गवर्नमेंट देती है और सेना की मान्यता आप देते हैं लेकिन अध्यापकों के लिये वहाँ कोई सेवा शर्त नहीं है। कोई पेंशन नहीं है, कोई प्रेच्युटी नहीं है, कुछ

नहीं है और आज तक बना भी नहीं। पता नहीं कितने दिनों से यह धाधली चली आ रही है और वहाँ के प्रिंसिपल जिस को चाहते हैं 3 महीने की तनख्वाह दे कर निकाल सकते हैं, नोटिस दे कर निकाल सकते हैं जब कि केन्द्रीय सरकार का कोई कर्मचारी या राज्य सरकार का कोई कर्मचारी जो कुछ दिनों की सविस के बाद स्थायी हो जाता है वह चाहे कितनी भी अनुशासनहीनता करता रहे, यदि आप उस को निकाल देते हैं तो वह हाई कोर्ट से या सप्रीम कोर्ट तक से लड़ कर फिर वापस आ जाता है। वह काम भी नहीं करता और तनख्वाह भी ले लेता है। लेकिन उन के सामने कोई चारा नहीं है। उन के लिये कोई रूल रेगुलेशन नहीं है और न आज तक बना है। तो ऐसी स्थिति में आप सबोर्डिनेट लेजिस्लेशन कमेटी को क्या पावर देते हैं कि जहाँ इस तरह की बात हो वहाँ वह अधिकारियों को बाध्य करे कि वे रूल्स और रेगुलेशन बनायें क्योंकि हमारा अनुभव है कि नौकरशाही अगर एक बार गलती कर लेती है तो उस गलती को दोहराते रहने में ही उस को मजा आता है। जान कर के भी अगर गलती हो जाती है तो वे उसकी ही बारबार वकालत करते हैं और तब तक वह नहीं मानते जब तक कि आप उनको बाध्य न करें और आप उन को बाध्य करने के लिये कभी तैयार होते हैं और कभी नहीं तैयार होते हैं और इस से लोगों का नुकसान हो जाता है।

दूसरी चीज जो मैं कहना चाहता हूँ वह यह है कि ऐसा लगता है कि इस में एक शुगर कोटड कुनैन भी आपने दी है। जहर पर मीठा चढ़ा कर दिया गया है अब वह मरता है या नहीं यह तो पात्र और सुपात्र पर निर्भर करेगा

[श्री रामनरेश कुशवाहा]

(व्यवधान) लेकिन कोई जहर से नहीं नहीं बचता तो मीठे में जहर आप ने मिलाया है ताकि पता न चले। लेकिन हम को ऐसा लगता है कि बिहार प्रेस बिल के वापस होने के बाद आप राज्य सरकारों को वह पूरे अधिकार बजाय एक बना कर करने के अब बाई लाज बना कर करने के लिये दे रहे हैं और पृष्ठ 3 पर प्रेस और पुस्तक रजिस्ट्रीकरण अधिनियम, 1967 के अंतर्गत आप ने दिया है कि (1) धारा 20 के स्थान पर निम्नलिखित धारा रखी जायगी, अर्थात् :—

20 (1) राज्य सरकार, राज्यपत्र में अधिसूचना द्वारा, ऐसे नियम (जो केन्द्रीय सरकार द्वारा धारा 20 के अधीन बनाए गए नियमों से असंगत नहीं हैं) जो इस अधिनियम के उद्देश्यों को क्रियान्वित करने के लिये आवश्यक या वांछनीय हों, बना सकेगी।

दूसरा है (2) इस धारा के अधीन राज्य सरकार द्वारा बनाया गया प्रत्येक नियम, बनाए जाने के पश्चात् यथाशीघ्र, राज्य विज्ञान मंडल के समक्ष रखा जाएगा।”

(2) धारा 20 की उपधारा (2) में, “यह अवधि एक सत्र में या दो आनुक्रमिक सत्रों में पूरी हो सकेगी। यदि उस सत्र के, जिस में वह इस प्रकार रखा गया है, या ठीक बाद के सत्र के अवसान के पूर्व” शब्दों के स्थान पर “यह अवधि एक सत्र में अथवा दो या अधिक आनुक्रमिक सत्रों में पूरी हो सकेगी। यदि उस सत्र के या पूर्वोक्त आनुक्रमिक सत्रों के ठीक बाद के सत्र के अवसान के पूर्व” शब्द रखे जायेंगे।

मान्यवर, देखने में तो यह बड़ा मासूम है और इस में कोई खतरा दिखाई नहीं देता लेकिन ऐसा लगता है कि अगर कोई सरकार, राज्य सरकार चाहे तो वह प्रेस एकट जो बिहार में जिस प्रकार का घना और वापस हुआ उस तरह का ही बाईलाज बना कर चुपचाप लागू कर सकेगी। तो मैं कहना चाहता हूँ कि अगर राज्य सरकारों को चुपचाप यह करने के लिये आप छूट दे रहे हैं तो यह ठीक नहीं होगा। ऐसा न हो इसके लिये आप कोई तरीका निकालें ताकि फिर से बिहार प्रेस बिल जैसा कोई बिल पास न हो जाय। पत्रकारों के हकों की और प्रेस के हकों की रक्षा हो सके इस का आप ध्यान रखें। बजाय इसके कि वह चुपचाप बाइलाज बनायें और बाइलाज बनाकर उसको लागू कर दें क्योंकि जितने बाइलाज बनते हैं, कितने लोगों को उनके बारे में जानकारी होती है? बहुत से लोग नहीं जानते हैं, है, बहुत भी उन पर नहीं होती है। आपसे यह निवेदन करूंगा कि आप प्रेस की रक्षा करें और इस तरह का जो प्राविजन आपने किया है, यह पावता पर निर्भर करता है। अगर कुपात्र के हाथ में यह पड़ जाएगा तो जैसे सांप को दूध पिलाइये तो जहर पैदा होगा और पहलवान को दूध पिलाइये तो वह अच्छा शक्तिशाली बनेगा उसी तरह से यदि कोई कुपात्र मुख्य मंत्री होगा तो वह सर्वनाश कर डालेगा। अच्छा होगा तो अच्छी बात होगी। तो आप क्यों इस तरह की छूट दे रहे हैं जिससे कि भविष्य में कोई खतरा पैदा हो सकता है।

इसलिये मैं आपसे यह निवेदन करूंगा कि आप ऐसा प्राविजन न करें और ऐसी व्यवस्था करें कि राज्य सरकारों

को अगर कुछ करना है तो वह कानून बना कर करें, बजाय इसके कि वह बाइलाज बनाकर इस तरह के गलत काम करना आरम्भ कर दें। इसलिए मैं निवेदन करूँगा कि कमेटी आन सदाइनेट लेजिस्लेशन को कुछ अधिकार दीजिए और जहाँ नियम और उपनियम नहीं हैं वहाँ बनवाने के लिए कोई सिफारिश वह करें तो उसको मान लीजिए ऐसा नहीं कि वह सिफारिश करे और उस पर आपके अधिकारी ध्यान ही न दें। जब वह पार्लियामेंट की कमेटी है तो उसका मतलब क्या है और सदन की कमेटी होने के नाते उसकी सिफारिशों पर अमल हो, इसके लिए भी आप रास्ता निकालिए।

इन्हीं शब्दों के साथ मैं इस बिल का समर्थन करता हूँ और आशा करता हूँ कि आप मेरे सुझावों पर ध्यान देंगे।

SHRI SHRIDHAR WASUDEO DHA-BE (Ma'narashtra): Madam, Vice-Chairman, this Bill is a welcome legislation, the Delegated Legislation Provisions (Amendment) Bill. I would like, at this stage, to suggest to the hon. Law Minister that the tendency is increasing nowadays to have more powers to the executive and the objectives and policies of file legislation are not clearly defined. Many functions, which are purely the functions of a legislative body, are left to the executive so that it can be said that the executive is also given the power to legislate. The rule making powers are so great and so wide that in many legislations, the objectives of the legislations are defeated by the executive rules and fiats. Therefore, the Committee on Subordinate Legislation has placed this restriction that all rules should be placed before Parliament so that these can be examined and it can be seen whether the rules made under the Act are within the ambit of the Act and whether the powers

given under the Act have been properly exercised for the purposes of the legislation.

In this amending Bill, I find for the first time—I do not know whether there is a precedent—that an omnibus list of legislations has been brought in. Through' this amending Bill, 50 legislations are being amended. I do not know whether the hon. Law Minister can tell us how many more legislations are on the statute book which require amendments of similar type and which could not included in this omnibus list of legislations.

The Committee on Subordinate Legislation has given the guidelines. This i does not mean that the wording in the different legislations should be the same . and should be uniform. The uniformity in the amendments was not the intention of the Committee on Subordinate Legislation. The Committee on Subordinate legislation gave a broad guideline saying that rules should be placed before Parliament or the Legislature so that they will have the power to amend and this power' can be exercised. I find in these 50 legislations which are being amended, mechanical work has been done by the department. In many amendments, the provision is already there. The only thing which has been done is to have one formula and that everything must be under that formula. Uniformity in legislations is not the test of a good legislation. Now, I would like to draw your attention to page 32. I would just refer to one particular case. There are many others of this type.

I quote:

"Extracts from the Indian Medicine Central Council Act, 1970 (48 of 1970) 35. (1)..

..

(2) Every rule made under this section shall be laid as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or

[Shri Shridhar Wasudeo Dhabe]

in two successive sessions and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree' in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything, previously done under that rule."

I do not understand why section 35 requires amendment. It is already there in the Act itself. I do not want to take each and every case because this will be time-consuming, but wherever such rules and provisions were already there in the Act, was it desirable, Mr. Law Minister, to amend those provisions to bring in the uniformity? The very purpose of the Subordinate Legislation Committee is that the Parliament should have power to scrutinise laws. If such power is already existing in the enactments, I do not see any reason to have brought in all these 50 Acts together for the purpose of amendment. Now the Press Council Act is also there. This Act on the other hand did not provide for this and, therefore, the amendment is properly brought in on page 34. But in some Acts here I find that parliamentary scrutiny had already been provided for in the legislation. So, I do not think any useful purpose would be served by amending those legislations which had already a provision of this type. The work of the Subordinate Legislation Committee is very important as has been pointed out by my friend and this tendency of the executive to take away the legislative actions in the form of executive actions and framing rules has created many problems in our Indian democracy. The democracy requires that all these three wings, executive, judiciary and legislature, functioned in their own spheres and functioned fully. In that context the Subordinate Legislation Committee's report is very important. It is a very laudable attempt on

the part of the Law Minister to amend the Acts so that the Subordinate Legislation Committee is given power. Subject to what I have said, I support the Bill.

SHRI P. BABUL REDDY (Andhra Pradesh): In the first place I thank you Madam, Vice-Chairman, for having me this opportunity. I want to make one or two suggestions. So far as the suggested amendment is concerned, this provision is already there in many Acts. There is nothing new. But it is essentially a welcome move to incorporate it in all the Acts. More important than this is that in the Acts where general legislative policy is made, very important function is carried out by subordinate legislation. Even in the matter of taxation, rate of tax and so many other important things, it is the subordinate legislation that makes the rules. So, in such a situation some Acts do contain a provision that the proposed rules should be published calling for objections. For example, in the Motor Vehicles Act there is a provision like that *i-e*, to publish the proposed rule, inviting objections from all concerned. It is done because some of these rules impose very big obligation on very many sections of the society. So, that is also a wholesome provision. May be, that has not been suggested by the Subordinate Legislation Committee, but that would be a more important thing because you can expect some objections. But this laying before the House is more or less a ritual ... to place it before both Houses of Parliament for a period of 30 days. Normally, the Houses of Parliament are not taking the trouble to go through these rules and make any suggestions. Here also I will point out one anomaly. Parliament consists of both Houses of Parliament and the President. Power is given to the executive to make subordinate legislation. A rule is made. That rule is placed before both the Houses. Take, for example, the Lok Sabha. It suggests an amendment and passes a Resolution to that effect and sends it to the Rajya Sabha. The Rajya Sabha does not agree with that. The result would be that the rule made in exercise of the subordinate legislation delegated power

by the executive would prevail over the views of one of the august Houses of this Parliament. Even suppose the Lok Sabha passes a Resolution saying that it requires some modification. The Rajya Sabha does not agree. The rule as framed by the executive in exercise of the delegated power conferred by Parliament would prevail over the views of the Lok Sabha or the Rajya Sabha, as the case may be.

These are one or two things which struck me and which I thought were worth placing before this august body. Thank you.

SHRI JAGANNATH KAUSHAL: Madam, Vice-Chairman, the purpose of the Bill was to give effect to the recommendations of the Committee on Subordinate Legislation of Parliament. No hon'ble Member who has participated in the debate has found fault with the Bill which we have brought forward in order to fulfil the obligation imposed by the Committee. But some other valuable suggestions have been made by the hon. Members. One or two relevant queries have been made.

One hon'ble Member has asked us, why have we started bringing such an omnibus legislation? In my opening speech, I did say that in the past when some Bills on these lines came up for consideration in the House, suggestions were made by some hon. Members that it would be better to bring forward a comprehensive legislation covering the various enactments which require similar amendments. In fact, it is open to the administrative departments to bring forward such a legislation for each and every Act. But the Members themselves said: "Why are you coming to us over and over again? Why not get a list of Acts which require such a provision and bring one comprehensive legislation?" Well, we thought it was a convenient way. But we have not succeeded even by this legislation in bringing forward amendments in all the Acts. The reason is obvious. It is for the administrative departments to* approach the Law Ministry and say. "In

such and such Act which we are administering, this provision is not there. So we want this provision. You may kindly advise us what provision to make and then we will go before Parliament". In fact, my Ministry is doing the job of the administrative ministries and we have been writing to each administrative ministry, "please, tell us which are the Acts you are administering so that we can bring forward such a legislation". And we have succeeded to the extent of 50 Acts which may be to the extent of 50 per cent. There are still more such Acts. The number I may not be able to, in fact, give, but, as I said, some more may be still there. And my effort is to go on asking the administrative Ministries to tell us about it so that the recommendation of the Subordinate Legislation Committee is given effect to. So that is the reason for bringing this omnibus Act. And I do not think there is anything good or bad, whether we bring legislation in this manner or we bring each by each Act before Parliament. In fact, the information at my command now is that 150 more Acts are still there. So it is not 50 per cent; it is only 33 per cent. We will come forward again and . . .

SHRI SHRIDHAR WASUDEO
DMABE: Two more instalments.

SHRI JAGANNATH KAUSHAL: Yes. Three instalments is always a convenient method.

Now the other things which the hon. Members have mentioned are in fact beyond the scope of the present Bill, but they are very useful suggestions and they can be made use of because whatever suggestions are made by the hon. Members are taken note of.

Now the first hon. Member, Shri Oza, said that rules are not made for quite some time, and in some cases rules are not made at all. And the third thing which he brought out was that rules made are defective, and that leads to a lot of litigation. The basis for litigation is that this rule is beyond the rule-making pow-

[Shri Jagannath Kaushal]

er; it goes beyond the Act. Well, I quote agree that these things are there. But the purpose of the present Bill is not to cover these defects. The purpose of the present Bill was only one. When rules are framed, those rules should be placed before the Legislature for their scrutiny because in some Acts this provision is not there, in other Acts this provision exists. The Subordinate Legislation Committee said, in order to bring forward the control of the Legislature even over subordinate legislation, it is necessary that those are placed on the Table of the Legislature. We say it is a very welcome suggestion of the Committee, and the Government at once accepted it. Therefore, the limited purpose of this Bill was to make the provision, if it does not exist already in some Acts, that the rules may be placed on the Table of the House.

Now the hon. Members have said that if the provision already exists, why are you making it again? Well, subject to correction, I do not think we have brought that provision in an Act where it already exists. If at all, we have...

SHRI SHRIDHAR WASUDEO
DHABE: Refer to page 32.

SHRI JAGANNATH KAUSHAL: I am mentioning it. If at all, it is for the purpose of bringing that provision in conformity with the formula laid down by the Subordinate Legislation Committee.

The particular thing which my hon. friend pointed out was that it is already¹ there, that it should be placed on the Table of the House in two successive sessions. Well, the formula is, "in two or more successive sessions". So the purpose, in fact, is to bring forward this amendment according to the formula suggested.

Now the other point which he made is that the publication of the rules is more important than even the placing of the rules on the Table of Parliament. Well, I think, both these things are very import-

ant. Publication is also important because without publication people are not supposed to know. But, placing before the Legislature is certainly very important for one purpose. Nobody can say that it is a ritual. Once a subordinate legislation is placed on the Table of the House, it is entirely up to the Member to take whatever interest they can. Or it can be examined by the Subordinate Legislation Committee. Therefore, all these Acts which have been amended, in fact, required an amendment and that is why we have brought forward this comprehensive amendment, and I seek the indulgence of the House to bring other one or two more such Bills. But the purpose will be the same. They are innocuous legislations on which no controversy is there.

Some important suggestions, as I said, have been made by the hon. Members, that the Government should not delay framing of rules that the Government should be more careful in drafting rules so that they do not give scope for unnecessary litigation and that the Govern-men should also frame rules where the legislature has left a number of things for it and should not go on filling the lacunae by administrative circulars.

SHRI DIPEN GHOSH: What about Government organisations registered under the Indian Companies Act?

SHRI JAGANNATH KAUSHAL: Well, if the power is not there under the Act to frame rules, then, surely this is not the scope of the present legislation. That can be looked into. You can write to me. I will examine the particular Act which you have in view. We will examine it. But then it is beyond the scope of the present legislation.

PROF. P. BABUL REDDY: The Law Minister has not referred to pre-publication of the proposed rules calling for objection. That is more important. If that is done, the sections of the community, which are affected, would be able to present their views.

SHRI JAGANNATH KAUSHAL :

Some Acts do contain provisions that the rules should be published at the draft stage so that the people can come forward with their objections which can be considered.

SHRI SANKAR PRASAD MITRA:

The Motor Vehicle Acts in some States contain the provision that before the rules are finalised a pre-publication is made for eliciting public opinion. And thereafter the rules are finalised. He was referring to those provisions.

SHRI DIPEN GHOSH; THE recruitment rules of various Departments also.

SHRI JAGANNATH KAUSHAL: Madam, I have done, and I thank the hon. Members who have taken part in this discussion.

THE VICE-CHAIRMAN [DR. (SHRIMATI) NAJMA HEPTULLA]: Now I put the motion.

The question is:

"That the Bill to amend certain Acts to implement the recommendations of the Committees on Subordinate Legislation regarding publication and laying of rules and other delegated legislation, be taken into consideration."

The motion was adopted.

Clause 2 and the Schedule

THE VICE-CHAIRMAN [DR. (SHRIMATI) NAJMA HEPTULLA]: We shall now take up clause by clause consideration of the Bill.

The question is:

"That clause 2 and the Schedule stand part of the Bill."

Tin motion was adopted.

Clause 2 and the Schedule were added to the Bill.

Clause 1, Short title and commencement.

THE VICE-CHAIRMAN [DR. (SHRIMATI) NAJMA HEPTULLA]: Now clause 1. There is one amendment.

SHRI JAGANNATH KAUSHAL: Madam, I move:

"That at page 1, line 4, for the figure '1982' the figure '1983' be substituted. *The question was put and the motion was adopted.*

THE VICE-CHAIRMAN [DR. (SHRIMATI) NAJMA HEPTULLA]: The question is:

"That clause 1, as amended, stand part of the Bill."

The motion was adopted.

Clause 1, as amended, was added to the Bill.

Enacting Formula

THE VICE-CHAIRMAN [DR. (SHRIMATI) NAJMA HEPTULLA]: Now the Enacting Formula. There is one amendment

SHRI JAGANNATH KAUSHAL: Madam, I move:

1. "That at page 1, line 1, for the word 'Thirty-third' the word 'Thirty-fourth' be substituted.

The question was put and the motion was adopted.

THE VICE-CHAIRMAN [DR. (SHRIMATI) NAJMA HEPTULLA]: The question is;

"That the Enacting Formula as amended, stand part of the Bill."

The motion was adopted.

The Enacting Formula as amended, was added to the Bill.

The Title was added to the Bill.

SHRI JAGANNATH KAUSHAL: Madam, I move:

"That the Bill, as amended be passed."

The question was put and the motion was adopted.